

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 29, 2003

IN RE:

**IMPLEMENTATION OF THE FEDERAL
COMMUNICATIONS COMMISSION'S TRIENNIAL
REVIEW ORDER - 90 DAY PROCEEDING**

**DOCKET NO.
03-00490**

**REPORT AND RECOMMENDATION
OF HEARING OFFICER**

This matter is before the Hearing Officer pursuant to the release of the Triennial Review Order ("TRO") by the Federal Communications Commission ("FCC") on August 21, 2003. The TRO and its associated rules¹ were published in the Federal Register on September 2, 2003 and, in the absence of a stay, will become effective on October 2, 2003. In the Order, the FCC found that telecommunications carriers are not impaired without access to unbundled local circuit switching employed for servicing customers using DS1 capacity and above² and gave State Commissions ninety (90) days from the effective date of the Order to petition the FCC for a waiver of this finding.³ In so doing, the State Commission must make a showing of impairment to the FCC that complies with the criteria specified in the rules.⁴

For this purpose, the Hearing Officer issued a notice directing any party interested in seeking a waiver of the FCC's presumption of no impairment to file a petition with the TRA by no later than Friday, September 26, 2003. As no such petitions have been filed by the specified

¹ 47 CFR Part 51.

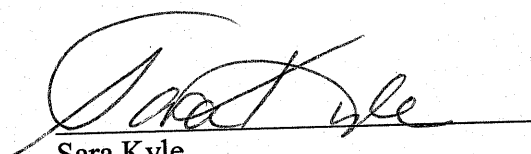
² 47 CFR 51.319(d)(3).

³ 47 CFR 51.319(d)(5)(i).

⁴ 47 CFR 51.319(d)(3)(i)(A) & (B).

deadline, it is recommended that the TRA decline to continue with this 90-day proceeding for the purpose of rebutting the presumption of no impairment for enterprise switching and that this Docket be closed. Adoption of this recommendation will in no way preclude the possibility of a subsequent proceeding in a new docket to consider waiver of this presumption of no impairment as allowed under 47 CFR 51.319(d)(5).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sara Kyle', written over a horizontal line.

Sara Kyle
as Hearing Officer